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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,527	02/21/2002	David P. Rossum	017002-003890US	9363

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EXAMINER

WARREN, DAVID S

ART UNIT PAPER NUMBER

2837

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/080,527

Applicant(s)

ROSSUM, DAVID P.

Examiner

David S. Warren

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
2. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
3. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
4. Claims 14-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6137043 in view of Hanzawa (4667556). The patent to Rossum (6137043) shows (i.e., claims) the method and system of multichannel interpolative playback of digital waveform data samples stored in a waveform memory. The Rossum patent includes the following claimed limitations of the instant application (application number 10/080527); accessing waveform memory samples from memory; storing two or more waveform memory samples for each channel; linearly interpolating between two adjacent waveform memory samples; incrementing a current address for each channel; a shared bus coupling. The Rossum patent does not claim the method or system of operating a waveform memory asynchronously from an address update unit and interpolator, accessing a memory in burst mode, overwriting data in a memory that is no

longer required, accessing via a bus request or bus acknowledge signal, determining whether the interpolator has control of the waveform memory, disabling memory address and control signals in response to bus acknowledge signals, nor using more significant bits for channel assignment and less significant bits for addressing a waveform memory. The patent to Hanzawa shows that CPU (11) timing is asynchronous to the timing of the tone source control unit (14) (col. 7, lines 15-18). The asynchronous timings of Hanzawa can be seen by comparing figs. 8 and 6 (note:  $\phi_s$ ,  $\phi_w$  in both figures). Official notice is taken that burst-mode memory access is well known (see Piesinger reference cited below). Overwriting data into Hanzawa's RAM is inherent. Hanzawa shows the use of accessing data from memory via bus request/acknowledge signals (i.e., a BUSY signal, col. 7, line 28). Hanzawa shows that bus (RD) serves as a path for waveform data to the interpolation circuit (146), determining whether the interpolator had control is inherent since any bus transfer of data would need to be "controlled" by appropriate I/O components. Hanzawa shows the use of disabling memory access (via command control circuit 142a) in response to data on bus IDB (col. 7, lines 29-33). As shown in figure 8 (row 9), Hanzawa shows using less significant bits for channel assignment and more significant bits (U8BIT) for pitch information. Using the more significant bits for addressing is shown in column 7, first paragraph where the Pitch Write command requires an address and is controlled by "upper 8-bit data."

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Piesinger shows the use of memory access in a burst mode (col. 6, lines 1 and 2).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 703-308-5234. The examiner can normally be reached on M-F, 9 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

dsw  
February 5, 2003

  
ROBERT E. NAPPI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800